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Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO;
SAN FRANCISCO POLICE SERGEANT R. COX;
SAN FRANCISCO POLICE SERGEANT J. O'MALLEY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANILO MARTIN MOLIERI, AND
DANIEL STEVEN MOLIERI,

Plaintiffs,

vs.

COUNTY OF MARIN, Marin County Sheriff's
Sergeant J. SCARDINA, Sheriff's Deputy
ERIC RICHARDSON, Sheriff's Deputy
BONDANZA; CITY AND COUNTY OF
SAN FRANCISCO, San Francisco Police
Sergeant R. COX; San Francisco Police
Sergeant J. O'MALLEY; and DOES 1-25,
inclusive

Defendants.

Case No. CV 10 5430 MMC

**STIPULATION TO CONTINUE PRE-TRIAL
AND TRIAL DATES; ~~PROPOSED~~ ORDER**

Trial Date: December 12, 2012

STIPULATION

Pursuant to Local Rule 7-12, Defendants City and County of San Francisco, San Francisco Police Sergeant R. Cox, San Francisco Police Sergeant J. O'Malley (the "San Francisco Defendants"), the County of Marin, Marin County Sheriff's Sergeant J. Scardina, Sheriff's Deputy Eric Richardson, Sheriff's Deputy Bondanza (the "Marin Defendants"), and Plaintiffs Danilo Molieri and Daniel Molieri stipulate and jointly request continuance of the trial date based on the following:

1 1. Trial for this matter is set for December 3, 2012. Pretrial preparation will begin this
2 week, with the parties required to meet and confer on Pre-trial Statements by October 9, 2012.

3 2. Plaintiffs' complaint alleges **intertwined** causes of action arising from the conduct of
4 the Marin and San Francisco defendants regarding the same December 2009 domestic violence
5 incident.

6 3. The parties filed motions for summary judgment and summary adjudication of issues
7 and are awaiting the Court's ruling on the San Francisco Defendant's motion for reconsideration. The
8 outcome of the Court's ruling will have a substantial impact on the remainder of the case and the trial.

9 4. Whatever the outcome of the Court's ruling on the motion for reconsideration, the
10 losing party – whether the San Francisco Defendants or Plaintiffs – would likely file a notice of
11 appeal. An interlocutory appeal would divest this Court of jurisdiction over some of the San Francisco
12 Defendants. Alternatively, Plaintiff's appeal of a final judgment would leave open the possibility that
13 the San Francisco Defendants would proceed through the appellate process only to be instructed to
14 proceed to trial at a later date. Thus, under the current conditions, the Marin County Defendants
15 would proceed to a first trial on the current trial date, with the San Francisco Defendants potentially
16 defending a trial of the same issues at a later date. Of course, Plaintiff would have to prosecute both
17 trials.

18 5. Plaintiffs and all defendants agree that should the Court proceed to trial at this time,
19 most if not all evidence presented at a trial involving only the Marin Defendants would be presented in
20 the same or similar format at a potential second trial involving the San Francisco Defendants. All
21 party and non-party witnesses would be called to testify in both trials, and documentary or other
22 evidence would be presented twice.

23 6. Pretrial preparation and trial of the same case on two occasions would constitute
24 unnecessary cost to this Court and all parties and witnesses. The parties agree that this waste of
25 judicial resources, attorney time, and witness time is best avoided by a stay of the entire case,
26 including all pre-trial preparation and settlement dates, until the resolution of the summary judgment
27 motion on appeal.

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1 Dated: October 3, 2012

2 DENNIS J. HERRERA
3 City Attorney
4 CHERYL ADAMS
5 Chief Trial Deputy
6 MICHAEL GERCHOW
7 Deputy City Attorneys

8
9
10 By: /s/ Michael A. Gerchow
11 MICHAEL GERCHOW

12 Attorneys for San Francisco Defendants

13
14
15 Dated: October 3, 2012

16 PATRICK K. FAULKNER
17 County Council
18 RENEE GIACOMINI BREWER

19 By: /s/ Renee Giacomini Brewer
20 RENEE GIACOMINI BREWER

21 Attorneys for Marin County Defendants

22
23
24 Dated: October 8, 2012

25 LAW OFFICES OF JOHN L. BURRIS

26 By: /s/ John L. Burris
27 JOHN L. BURRIS


28 Attorneys for Plaintiffs

ORDER

Having considered the stipulation of the parties and good cause appearing, the trial date in this matter ^{are} [^] remaining pretrial dates and the ~~is~~ hereby VACATED pending the outcome of any appeals made by the parties in relation to the motion for reconsideration ~~currently pending before this Court.~~ denied by order filed concurrently herewith.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 25, 2012

By: 
Hon. Maxine M. Chesney
UNITED STATES DISTRICT COURT JUDGE